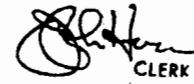


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

OCT 05 2015


CLERK

PAUL A. ROSBERG,

Plaintiff,

vs.

UNITED STATES OF AMERICA, USDA
NATIONAL ORGANIC PROGRAM,
KATE L. SCHMIDT, KATE S. BLAKE,
and OHIO ECOLOGICAL FOOD AND
FARM ASSOCIATION,

Defendants.

4:15-CV-04078-LLP

ORDER DISMISSING
COMPLAINT

Plaintiff, Paul A. Rosberg, filed this pro se lawsuit, arguing defendants illegally revoked his certification as an organic farmer. He named the United States of America, USDA, Kate L. Schmidt, Kate S. Blake, and the Ohio Ecological Food and Farm Association (OEFFA) as defendants. At the time of filing, Rosberg was incarcerated at the federal prison camp in Yankton, South Dakota. The Court “screened” this case pursuant to 28 U.S.C. § 1915A. For the following reasons, Rosberg’s claim is dismissed.

Rosberg was an organic certified farmer in Nebraska. Docket 1 at ¶1. He was certified by OEFFA. *Id.* He claims that he received a “Notice of Noncompliance” from OEFFA in January 2014. *Id.* at ¶7. He claims that OEFFA sent him a letter suspending his certification, without anything in between. *Id.* at ¶9. There is an appeals process that Rosberg claims was denied to him. *Id.* at ¶¶10-13.

There is a court record of concerning Rosberg's revocation. Rosberg was involved in litigation before Administrative Law Judge Janice K. Bullard, including filing motions and partially answering the complaint. *In Re: Paul A. Rosberg, Doing Bus. As Rosberg Farm*, Docket No. 12-0216, 2014 WL 2768942 (U.S.D.A. May 30, 2014). The ALJ itself revoked Rosberg's organic certification rather than OEFFA. *Id.* Rosberg appealed the ALJ's finding, and it was upheld. *In Re: Paul A. Rosberg, d/b/a Rosberg Farm, Respondent*, OFPA Docket No. 12-0216, 2015 WL 5010311 (U.S.D.A. Aug. 20, 2015). Rosberg appealed the ALJ's order after he filed this complaint on April 10, 2015. Docket 1. This moots whatever meritorious claim he may have had that he was denied process. This lawsuit is not construed to be an appeal as was referred to in the text accompanying footnote 23 in the U.S.D.A. order. *In Re: Paul A. Rosberg*, 2015 WL 5010311 (copy attached).

Accordingly, it is ORDERED that Rosberg's complaint (Docket 1) is dismissed without prejudice.

Dated October 5th, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Lawrence L. Piersol", written over a horizontal line.

Lawrence L. Piersol
UNITED STATES DISTRICT JUDGE